



## SCOTT FITZPATRICK MISSOURI STATE AUDITOR

### Investigative Summary

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#### **Summary of Significant Complaint(s) reported:**

A complainant reported the Lawrence County Emergency Services Board (LCESB) paid employees of the 911 Emergency Communications Center appreciation bonuses in violation of the Missouri Constitution.

#### **Background:**

The LCESB consists of a board chairman, a board vice chairman, 4 district representatives, and a treasurer. The LCESB is located in the new 911 dispatch center that is supported by a 1/2 cent sales tax approved in April 2019. The transition to the new center began in 2019 and ended in September 2023. The 911 dispatch center currently has 12 full time dispatchers that dispatch for 7 law enforcement facilities, 12 fire facilities, and 2 ambulance districts.

#### **Complaint Review:**

The LCESB employee payments represent payments for past performance in violation of the Missouri Constitution. We reviewed open and closed meeting minutes and noted the Board voted unanimously, in a September 2023 closed meeting, to give an "Appreciation Bonus." Meeting minutes indicate the "bonus is for all of their hard work in getting the getting the 911 Center transitioned from Monett to Mt. Vernon." The Board approved the bonuses for 3 employees in the amounts of \$5,000, \$2,500, and \$2,500. The Board response to the investigative letter indicated the 3 employees worked 60-70 hours per week to meet deadlines and to ensure uninterrupted 911 service for the Lawrence County citizens and emergency responders. While this is commendable, the Missouri Constitution prohibits paying employees for work previously performed as the response indicates was the purpose of the payments. Instead, additional hours should be compensated through the normal payroll process including paying overtime or providing compensatory time in accordance with statute and policy. The Board's response also indicated that it consulted legal counsel who stated the payments were appropriate, but there is no documentation of this.

The response also indicates the payments were intended to be stipends, despite being labeled as bonuses in both meeting minutes and the payroll system. Stipends would be appropriate if established prior to the work and the work performed represented additional duties not already included in the employee's job description. A review of the job descriptions for the 3 employees indicates the work related to the 911 center transition was within their established job duties.

Payments for services previously rendered are in violation of Article III, Section 39(3), Missouri Constitution and contrary to Attorney General's Opinion 72-1955 (June 14, 1955), which states, ". . . a government agency which derives its power and authority from the Constitution and laws of this state would be prohibited from granting extra compensation in the form of bonuses to public officers or servants after the service has been rendered."

#### **Additional Concerns:**

The Board also did not document in the open meeting minutes the specific section of law allowing the September 2023 meeting to be closed and approved the bonus payments in closed session in violation of the Missouri Sunshine Law. Section 610.022, RSMo, requires public bodies to announce the specific

reasons allowed by law for going into a closed meeting and to enter the vote and reasons into the minutes, and also limits discussion topics and actions in closed meetings to only those specifically announced prior to closure. While Section 610.021(13), RSMo, allows the Board to make some personnel decisions in closed session, the statute explicitly states that this exemption does not apply to the salaries of employees of public agencies.

**Conclusion:**

The bonus payments to 3 staff appear to be in violation of the Missouri Constitution as they were for past work and fail to meet the requirements for an allowable stipend. In addition, the Board did not cite the statutory reason for the closed session when voting in open session and discussed and approved the payments in closed session in violation of the Sunshine Law. We will issue a closure letter indicating this and noting the Board should ensure payments to employees are properly approved in open session and comply with all applicable laws.